IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3143 OF 2006

M/s Smruddha Constructions,Pune Petitioner.

Vs

Pune Municipal Corporation,Pune
and anr. Respondents.

Mr Sugandh B Deshmukh, for the petitioner.
Mr Rajesh G Ketkar, for the respondent nos 1 and 2.

CORAM : D.B.BHOSALE,J.
DATE : 27.09.2006

PC:

1. Heard the learned counsel for the parties.

2. Mr Deshmukh, learned counsel for the petitioner, on instructions from his client, who is present in the Court, seeks liberty to withdraw this writ petition as also Regular Civil Suit No.1291 of 2005 pending in the Court of the Civil Judge, Junior Division Pune at Pune and contest the impugned notice nos BCO/5612 and BCO/5614, both dated 16.8.2005, issued by the respondent-corporation under sections 54,58 and 69 of MRTP Act, 1966 and under the provisions of the Bombay provincial Municipal Corporations Act. He states, though the petitioner had then replied to the said notices, they may be given liberty to file additional reply and the concerned authority may be directed to consider their reply and decide the said notices afresh

within timeframe. Mr Ketkar, learned counsel for the respondent-corporation, submits that in pursuance of the reply to the notices filed by the petitioner, the submission was made to the Commissioner by the concerned department and the Commissioner, on 26.2.2006, has taken decision that the disputed construction cannot be regularised. The Commissioner, however, while taking such decision did not give hearing to the petitioner. Keeping that in view and considering the submissions of the learned counsel for the parties, I am satisfied that this writ petition can be disposed of by the following order.

(a) The writ petition is allowed to be withdrawn.

(b) The petitioner is allowed to make a formal application seeking to withdraw the suit before the trial court within two weeks from today. If such an application is filed, same may be considered within four weeks therefrom in accordance with law.

(c) It is open for the petitioner to file additional reply to the impugned notices dated 16.8.2005, issued by the respondent-corporation, seeking personal hearing before the concerned authority within two weeks from today.

(d) If the additional reply, as stated above, is filed within the time stipulated, the concerned

authority shall give hearing to the petitioner and decide the said notices afresh as expeditiously as possible and preferably within a period of eight weeks therefrom on merits in accordance with law.

(e) Both the parties shall maintain status-quo till orders are passed on the aforesaid impugned notices and for a period of two weeks therefrom, if the orders are adverse to the petitioner.

(f) With these observations, the writ petition is disposed of.

(D.B.BHOSALE,J.)